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CONCENTRATION AND INTERNATIONAL LAW.

THE tendency towards concentration which is the marked characteristic of the age is no new phenomenon. It is the logical outcome of a certain line of development. In the first application of the principle of division of labor in its most rudimentary form was concealed the germ which has developed into what seems almost a revolution of business methods. Commercial evolution has gradually developed the system of centralized control by carrying to its logical conclusion the principle of division of labor.

Division of labor is perhaps from a certain standpoint a somewhat misleading term. It suggests a scattering rather than a concentrating process. Division of labor really concentrates into the hands of a class some one commercial function, and gives each class so much greater experience, skill, and so improved implements, that the production and exchange of commodities are effected with the minimum of waste. Take for instance a community where each man makes his own shoes. With the introduction of division of labor, shoemaking is concentrated into the hands of a class of shoemakers. Carry the division of labor farther and you have each process in the manufacture of a shoe concentrated in a body of workmen who do nothing but that one process, and attain great skill by a constant repetition of the same act.

Division of labor in manual and mechanical processes to-day excites no unusual attention, but an extension of the principle to the managing department has created alarm. The modern consolidation of industries is but an extension of division of labor to the function of the manager or *entrepreneur*. A smaller body of men now undertakes to do what was formerly done by a large number of independent industries. The new *entrepreneurs* are experts who have at their command the most improved implements, and we already begin to see the elimination of waste and the greater efficiency of labor which are characteristic results of every extension of division of labor.

It is curious to note that the tendency towards consolidation is not confined to commercial affairs. It seems to be a great evolutionary law. The same tendency is apparent in the concentration of

political power. In the earliest stages of man's development the individual was the political entity, — a law unto himself. Individuals combined into tribes; tribes formed permanent settlements; cities arose; kingdoms were founded; kingdoms were merged into nations, — all these concentrating processes. In the Middle Ages Germany was divided into twelve hundred independent states, and similar political subdivisions existed in most European countries. The present century has seen the welding of more than one nation; the consolidation of Austria, of Italy, of Germany, illustrate this fact. To-day the nation is the nominal political entity. But the most cursory glance over the history of the last hundred years will show that the concentrating process is still going on, and that political control has passed into the hands of the six Great Powers of Europe. England, France, Germany, Austria, Russia, and, since 1867, Italy have claimed and have exerted control over the foreign affairs of Europe, and have even interfered in the internal affairs of independent states. The erection of Belgium into a kingdom and its neutralization; the neutralization of the Suez Canal, of Switzerland, and of Luxembourg; the various attempts to settle the Eastern question; the erection of Egypt into a semi-sovereign state, — will sufficiently illustrate the magnitude and the importance of the political control which is exerted by the Great Powers. But it would seem that of the six Great Powers not more than three, England, Germany, and Russia, are destined to maintain their dominant position. France's future is problematic; her population is stationary and she is not a good colonizer; a nation, like every other living organism, must grow or die. Italy is a Great Power only by virtue of an express invitation to join the Powers in 1867. Austria is threatened with disintegration on the death of the present Emperor. The concentrating process is thus being carried to a still higher point. Instead of six Great Powers, we may expect to see only three in Europe. In the Western hemisphere the United States practically exerts a primacy equivalent to the control of the Great Powers in the Eastern. The political entity is therefore fast becoming something beyond the nation, something approaching perhaps a Council of the Great Nations as representing the family of nations, or "a Committee, a body of representatives of the leading states," as Lawrence puts it. At any rate, the principle of concentration of power is there, and is working out its evolution.

This concentration of political power cannot fail to have a marked effect on International Law. International Law is

founded on usage and on express agreement. Agreement to a rule of conduct is expressed by the signing of a treaty or declaration at a convention called for that purpose. A custom or an agreement observed by the dominant powers is virtually binding on the lesser powers. Assent to a new rule is always more readily obtained where the number of the parties interested is small, and the fewer the nations whose consent is vital, the more likely a question is to receive international sanction. When it lies within the power of four nations to make rules which shall be observed by the family of nations, we may expect to see a great extension of the rules regulating the conduct of states with one another. The dominant states have it in their power to originate and to confirm usage as well as to put into operation new laws, and thus to add by custom to the body of International Law. If, for instance, the Great Powers and the United States should always submit a certain class of cases to the Board of Arbitration suggested at the Peace Conference, it would soon become customary to submit such cases to arbitration.

A custom which is adhered to for a certain length of time is a tacit agreement, and becomes as binding as a written agreement or a law. The United States to-day is as much bound not to issue letters of marque to privateers as though she had signed the Declaration of Paris in 1856. A custom is often stronger than a law. It would probably be easier to repeal a law making residence a necessary qualification for a representative office than to break down the custom which, in this country, obliges a representative to live in the district which he represents. So that the right to initiate international customs which are practically binding on the smaller nations, as well as to make international agreements, puts immense power into the hands of the dominant powers.

A law, however, which can be violated with impunity by the strong, can hardly be called an effective law. There are only two ways to-day of enforcing international agreements or international customs, — by war or by the force of public opinion. The first step has been taken towards substituting law for force, namely, the inauguration of a system of International Arbitration. The most sanguine can hardly look upon what was accomplished by the Peace Conference as more than evidence of a tendency. An International Court of Arbitration would undoubtedly at first draw its strength from the power of public opinion; it is inconceivable at the present stage of development that an interna-

tional body of troops should be maintained to enforce the decrees of such a court. But decrees enforced by public opinion would soon become customs, and laws arise from customs. Even a custom to appear before the court would do away with a great number of causes of conflict, and an enlightened public opinion may as readily, perhaps, enforce an appeal to the court as it does the observance of the neutrality of the hospital corps at sea. The world is fast being partitioned, and when territorial boundaries are permanently defined—as they may well be soon, so rapid is the march of events nowadays—a fertile source of international contention will be done away with, and nations will be more ready to see what their common interest is.

What is the stage of political development which is to succeed the present one, where the nation is the political entity? To what is the concentrating process which is still going on tending? The concentration of power seems to point to some new entity more compact than scattered nations. May it not be some form of a republic of nations with a well-developed body of laws, a Congress by which new laws shall be made, and a tribunal to whose laws the component nations submit, very much as the states of the United States submit to the Federal law,—in other words, a government by consent of the governed; with each nation supreme in its internal affairs, and limited in power only in its international relations? The extension of International Law, the establishment of an International Tribunal, the concentration of power into the hands of a few great nations, the absorption of the lesser nationalities into the greater, the consolidation of interests in every domain of life, the growth of republican institutions, seem to point to some such outcome. The concentrating process is necessary to attain this result. Whether, when once a really effective body of laws governing the relations of nations—one that can be enforced—has been established, a process of disintegration will then set in and great nations will again be resolved into small ones, no man can tell. It is beyond the range of our vision until more definite tendencies appear.

Grafton Cushing.